

LOCAL RULES



December 15, 2009 (Post Public Hearing Draft)

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22, 2009 (Bankruptcy Judges Review)

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- **Preliminary Comment applicable to all Local Rules:** *Federal Rule of Bankruptcy Procedure 9006(a) currently requires exclusion of Saturdays, Sundays and legal holidays if the period prescribed is less than 8 days. As of December 1, 2009 this Rule will require that all days will be counted even if the prescribed period is less than 8 days. As a result, 5 day periods become 7 day periods, 10 day periods become 14 day periods and 15 day periods become 14 day periods. The following changes to the local rules will therefore be necessary to accommodate this change.*

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LR 1002 Petitions, Schedules and Other Documents.

Number of Copies. All parties filing petitions for relief pursuant to the Code, other than electronically, shall file an original and copies as set forth in the Appendix.

- LR 1002.2 Electronically Filed Cases; Debtor to Maintain Paper Copies.** For any case which has been filed electronically, debtors shall bring to the section 341 meeting a true and accurate signed copy of their petition, schedules and Statement of Financial Affairs, and amendments thereto, and furnish them to the trustee upon request.

- LR 1005 Disclosure of Spouse.** In any case filed by a married debtor in which the debtor's spouse is not a joint debtor, the name, address, if known, and the last four digits of the social security number of the debtor's spouse shall be included in the Statement of Social Security Numbers (Local Form 21) and in the notice of the section 341 meeting of creditors. The debtor's spouse's name shall appear in the caption of all notices, pleadings and other papers filed in the case and in any adversary proceeding within the case.

***Comment:** The rule is modified to require only the last four digits of the non-filing spouse's social security number. This is to bring the rule in conformance with Bankruptcy Rule 9037. Adopted May 15, 2009.*

- LR 1007 Master List ("Matrix").** In all cases, the debtor shall prepare and file a separate master list in the form specified by the clerk. The master list shall serve as the official mailing list in all cases. The master list shall contain the name and address of all creditors and other parties in interest entitled to notice. The master list shall also include the name and address of the debtor's spouse if not a joint debtor.

- LR 1007.1 Disclosure of Spouse's Earnings and Expenses.** In any case filed by a married debtor in which the debtor's spouse is not a joint debtor, the Schedule I - Current

Income of Individual Debtor(s) and Schedule J - Current Expenditures of Individual Debtors(s) shall separately disclose the earnings and expenses of the debtor's spouse, if the debtor's spouse resides with the debtor.

LR 1007.2 Disclosure of Marital Agreements. The debtor's Statement of Executory Contracts and Unexpired Leases shall disclose any material agreement that affects the classification of nonexempt assets of the spouses or that affects any liability of the spouses. In a Chapter 7 case, the debtor shall provide a copy of the marital property agreement to the assigned trustee no later than 7 days prior to the first scheduled meeting of creditors.

LR 1007.3 Disclosure of Transfers and Loan Payments by The Debtor's Spouse. In any case filed by a married debtor in which the debtor's spouse is not a joint debtor, the Statement of Financial Affairs shall include transfer of marital property by each spouse and loan payments made with marital property by each spouse for the same period as required by the debtor.

LR 1007.4 Disclosure of Other Documents.

(a) **Chapter 7, 12 and 13 Cases.** In Chapter 7, 12 and 13 cases, the debtor shall provide copies of the following to the assigned trustee no later than 7 days prior to the first scheduled meeting of creditors:

- (1) Titles to all vehicles;
- (2) Recorded deeds and land contracts for all real estate;
- (3) Recorded mortgages for all real estate;
- (4) The most recent real estate tax bill for all real estate;
- (5) The preceding two (2) years signed federal and state income tax returns and all schedules or transcripts thereof;
- (6) Payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the debtor from any employer of the debtor;
- (7) The name, address and telephone number of each holder of a Domestic Support Obligation; and,
- (8) Any other documents requested by the trustee.

(b) Tax returns and payment advices or other evidence of payment provided to the trustee under paragraphs (a)(5) and (a)(6) above, shall not be filed with the court unless otherwise ordered.

LR 1007.5 Disclosures Required Prior to Discharge.

(a) **Chapter 7 Cases.**

(1) The statement described in (2) below shall apply in a Chapter 7 case in which:

- (a) The debtor uses exemptions from another State due to the length of debtor's domicile in that State pursuant to Sec. 522(b)(3)(A); and
- (b) The residence, burial plot or homestead exempted under Sec. 522(p)(1)(A), (B), (C), and (D) exceeds, in the aggregate, the amount listed in section 522(p)(1).

***Comment:** The change to (a)(1)(b) is to take into account the periodic changes in the statutory exempt amount. Adopted April 28, 2009.*

(2) Debtors subject to (a)(1) above shall file with the court a statement stating:

- (a) Whether or not there is a proceeding pending in which the debtor may be found guilty of a felony of the kind described in Sec. 522(q)(1)(A); and
- (b) Whether or not the debtor owes any debts of the kind described in Sec. 522(q)(1)(B).

(3) The statement shall be filed no earlier than 45 days and no later than 50 days after the first date set for the Sec. 341 meeting of creditors.

(b) **Chapter 12 and 13 Cases.** Debtors in Chapter 12 or 13 cases who are subject to a domestic support obligation (Sec. 101(14A)), whether said obligation arose before or after the commencement of the case, shall, at the time of making the last payment called for under the plan:

- (1) Certify to the Chapter 12 or 13 trustee that all pre-filing and post-filing payments have been made on domestic support obligations as required by Sec. 1228(a) and 1328(a); and
- (2) Provide the Chapter 12 or 13 trustee with the name and address of any holders of a domestic support obligation, the name and address

of the debtor responsible for said obligation and the name and address of the most recent employer of the debtor responsible for said obligation.

LR 1008 CM/ECF Login and Password Constitutes Signature

The user login and password required to submit documents to the CM/ECF System serve as the registered user's signature on electronic documents filed through the System. The filing of a petition, schedule, statement, amendment, a stipulation or other document requiring the signature(s) of a person(s) other than the registered user, constitutes a representation by the registered user that all parties whose signatures are required on the document have, in fact, signed the document.

LR 1009 Amendment of Petition, Lists, Schedules and Statements of Affairs. All amended Petitions, Lists, Schedules or Statement of Affairs shall include the entire Petition, Lists, Schedules or Statement of Affairs affected by the amendment and shall be filed together with the required oath by the debtor. If amending schedules D, E or F or the list of creditors, a supplemental master list shall be filed, listing only the new creditors. See the Appendix for the required fee for amendments. The debtor shall serve a copy of the amendment(s) and the notice of commencement of case on any new creditor(s) added by the amendment. Copies of all amendments shall be served on the trustee. The debtor shall file proof of such service with the court.

LR 1013 Designation of Responsible Individual in Involuntary Non-Individual Cases. Immediately after issuance of an Order for Relief, in a case where the debtor is a corporation, partnership, limited liability company or limited liability partnership, the petitioning creditor(s) shall seek an order designating an individual to be responsible for carrying out the duties of the debtor. Failure to seek such order may result in dismissal of the case or other appropriate action by the court.

LR 1015 Administration of Joint Estates.

The estates in cases commenced by the filing of a joint petition by or against a husband and wife shall be administered jointly unless the court directs otherwise.

LR 1017 Conversion from Chapter 7, 11 or 12 to Chapter 13. Upon conversion of a case from chapter 7, 11 or 12 to chapter 13, the debtor shall, within ~~15~~ 14 days of the entry

of the order of conversion, file with the court ~~and send to the trustee a copy of the~~ proposed plan, schedules and other documents required by these rules and the Bankruptcy Rules.

***Comment:** Electronic filing has made sending a copy of these documents to the Trustee unnecessary. Adopted April 21, 2009.*

LR 2002 Creditor’s Notices Pursuant to 11 U.S.C. § 342(f). Creditors filing notices of preferred addresses pursuant to 11 U.S.C. §342(f) shall file such notices directly with the court’s notice provider as defined in Bankruptcy Rules 9001(9) and 2002(g)(4). Section 342(f) notices filed with the court’s notice provider shall be deemed filed with the court, and need not actually be filed with the court. The clerk shall publish the notice provider’s name and contact information in the Appendix to the Local Rules.

LR 2014 Applications for Employment.

- (a) **Content of Application.** An application for authorization to employ a professional under section 327 or 1103 shall include a specific recitation of the anticipated services to be rendered together with an estimate of the cost associated with each service.
- (b) **Proposed Order Authorizing Employment.** An application for authorization to employ a professional under section 327 or 1103 shall be accompanied by a proposed order which shall include:
 - (1) the proposed terms and method of calculating compensation so that reference back to the application need not be made; and
 - (2) a reasonable fee cap based on the estimates set forth in the application.
- (c) **Exceptions to Fee Cap Requirement.** Except as otherwise ordered by the Court, the fee cap requirement set forth in LR 2014(b)(2) shall not apply to general counsel for a Debtor-In-Possession under Chapter 11 or Chapter 12 of the Code nor shall the fee cap requirement apply to general counsel for an

Official Committee of Unsecured Creditors under Chapter 11 of the Code.

- (d) **Motion to Increase Fee Cap.** If a professional believes that a fee cap contained within an employment order is insufficient to cover the services to be rendered, such professional shall, prior to exceeding the cap, file a written motion to increase the fee cap.
- (e) **Service of Application.** Applications for employment and motions to increase fee cap shall be served upon the United States Trustee, the debtor, the debtor's attorney, the attorney for any committee appointed under the Code, and any other person designated by the Court.
- (f) **Objections to Application.** Objections to applications for employment shall be filed and served within ~~ten (10)~~ 14 days after the filing of the proof of service of the application on the parties required by subpart (e) of this Rule.

LR 2016 Applications for Compensation for Services Rendered and Reimbursement of Expenses.

- (a) **Contents of Applications for Compensation.** All applications for Compensation shall provide all relevant information, including:
 - (1) A chronological record of time spent on a case, including the individual(s) participating and the subject matter of a meeting, letter, or conference, with each task recorded in tenths of an hour, if the fee is anticipated to exceed \$10,000 for a professional or firm, a separate chronological record shall be kept for each major task;
 - (2) A summary of the time expended by each person for whom compensation is sought;
 - (3) A detailed breakdown by item and date of all disbursements and expenses;
 - (4) An explanation of the need for compensation of more than one professional attending a hearing or meeting or the need for more than one level of review of work produced, in each instance for which multiple compensation is sought;

- (b) **Interim Compensation.** In addition to providing the information required under Bankruptcy Rule 2016 and LR 2016(a), applications for interim compensation shall include sufficient information to demonstrate that such interim allowance will not create an undue hardship on the debtor, the estate or any party in interest.
- (c) **Final Compensation.** Applications for final compensation shall include a summary of all fees and expenses requested whether or not those fees and expenses have been paid in whole or in part through interim compensation. A detailed itemization of these charges need not be provided if it has been provided in an application for interim compensation. Applications for final compensation may include estimated amounts for anticipated services not yet rendered.

LR 2070.1 Chapter 7 Trustee Expenditures.

- (a) In a Chapter 7 case, a trustee may incur and pay necessary and proper expenses, which the trustee believes cannot await the final hearing, from property of the estate in an aggregate amount not to exceed \$1,000 in any case without prior notice to any party and without a specific order authorizing such expenditures. Said expenses shall be limited to the following types:
 - (1) Expenses relating to changing locks on premises owned by the estate;
 - (2) Storage (or rent) expenses for property of the estate;
 - (3) Insurance for property of the estate;
 - (4) Advertising sales of estate property;
 - (5) Moving expenses related to transportation of estate property;
 - (6) Expenses relating to investigation of existence or perfection of secured claims (but not including wages of persons doing such searches);
 - (7) Bank fees for obtaining copies of bank documents;
 - (8) Transcripts or court reporter fees;
 - (9) Taxes incurred by the estate, including surcharges.
- (b) The trustee may continue to pay bond premiums in an amount authorized by

the U.S. Trustee in the manner previously approved by the court. The cost of the bond premium shall not be included in the \$1,000 aggregate amount allowed to be paid under this rule.

- (c) This rule does not authorize payment of any wages or professional compensation. This rule does not authorize the payment of any estate funds to the trustee or anyone employed by the trustee.
- (d)
 - (1) Notwithstanding the provisions of this rule, any creditor or the U.S. Trustee may demand advance notice of any expenditure in any case, in which case the trustee shall give notice of such expenditure as far in advance as is reasonably practicable to the U.S. Trustee and that creditor. If, in the trustee's judgment, funds must be expended on an emergency basis to avoid damages to the estate's property or the estate, notice shall be given to the U.S. Trustee and to the creditor promptly after payment.
 - (2) The trustee shall give advance notice of any proposed expenditures to any creditor directly affected by said expenditure, including any creditor for whom the trustee may require reimbursement to the estate pursuant to 11 U.S.C. § 503(b).
 - (3) If any party or the U.S. Trustee objects to such expenditure the trustee shall not incur or pay funds of the estate without a court order.
 - (4) Any notice or objection under this section shall be in writing and may be served in person, by mail, by facsimile copy, or by e-mail.
 - (5) Expenses in any case that exceed an aggregate of \$1,000.00 shall be paid by the trustee only upon order by the court, which may authorize conditions for payment of future expenses, after notice and opportunity to request a hearing to the U.S. Trustee, to any creditor directly affected by the payment, to counsel for the debtor (or to the debtor without counsel), and to any other parties that the court may direct.

LR 3001 **Secured Claims in Chapter 12 and 13 Cases.** In addition to the requirements of Bankruptcy Rule 3001, a secured Proof of Claim filed in a Chapter 12 or Chapter 13

case shall contain a detailed itemization of the following:

- (a) Delinquent periodic contractual payments of principal and interest and, if applicable, escrow;
- (b) Corporate advances;
- (c) Escrow advances not already included in (a), above;
- (d) Costs;
- (e) Fees;
- (f) Charges, and
- (g) Any other items comprising the claim.

***Comments:** The intent of this new rule is to require secured claimants to clearly specify the calculation of their claim. The current creditor practice of bundling charges into the general category of corporate advances makes it difficult to determine the allowable amount of the claim. The duplication of escrow added to the periodic contractual payment and escrow advance line items can be eliminated. Adopted July 14, 2009.*

LR 3001.1 ~~**LR 3001.1 Pre-computed Interest on Secured Claims in Chapter 12 and 13 Cases.**~~ A secured claimant seeking interest to be paid by the trustee during the term of the plan shall state in the proof of claim the secured portion of the principal balance and an appropriate simple interest rate on the claim. If the proof of claim does not set forth an interest rate, the interest rate in the plan shall control.

***Comment:** This rule has been made unnecessary because of the capability of the Trustee's case management computer programs to calculate the appropriate amount of interest. Adopted April 28, 2009.*

~~**LR 3001.2 Cost Itemization in Secured Proofs of Claim. In addition to the requirements of Bankruptcy Rule 3001, a secured Proof of Claim filed in a Chapter 12 or Chapter 13 case shall contain a detailed itemization of all costs, interest, fees, escrow advances and any other charges comprising the claim. This itemization**~~

~~shall distinguish such charges from the amount of delinquent periodic contract payments.~~

~~*Comment: The intent of this new rule is to require secured claimants to clearly specify the calculation of their claim. The current creditor practice of bundling charges in to the general category of corporate advances makes it difficult to determine the allowable amount of the claim. The periodic contract payment arrearages are to be calculated without escrow advances. Adopted April 14, 2009.*~~

LR 3002 Chapter 13; Demand for Itemization of Charges Accrued During Plan. Upon request of the debtor to a creditor secured by real estate, the creditor shall provide to the debtor, within 28 days after demand, a statement itemizing any unpaid charges that have accrued during the pendency of the bankruptcy case.

Comment: This new rule allows debtor to know if there are accrued charges during the case so that they can be addressed by the court while the case is still open. Adopted May 5, 2009.

LR 3007 Objections to Claims; Response.

- (a) An objection to a claim in a case as well as any other pleading, order or other paper filed with respect to the objection shall state the name of the creditor and assigned claim number in the title of the document.
- (b) No responsive pleading is required to an objection to a claim.

LR 3007.1 Objections to Claims; Hearings. Hearings on objections to claims shall be scheduled by the court and noticed under Bankruptcy Rule 3007. Notices of such hearings shall be accompanied by a copy of the objection and shall be served by the court, or the objecting party if the court so directs. The notice shall state whether the hearing is evidentiary or preliminary.

LR 3015 Modification of Chapter 13 Plans. Notice of Proposed Modifications and Hearing on Objections.

- (a) Pre confirmation Chapter 13 amended plans which materially adversely affect creditors shall follow the procedure set forth in Bankruptcy Rule 3015(g). If

there is no objection within ~~20~~ 21 days, the debtor shall file an affidavit of no objection. ~~Upon request of any creditor or any interested party, the debtor shall serve that party with a copy of any order modifying the plan.~~

- (b) Pre-confirmation Chapter 13 amended plans which, ~~in the opinion of the Standing Trustee,~~ do not materially adversely affect creditors shall be filed with the Clerk. If notice has previously been given by the Clerk or by the debtor in a prior plan that a possible modification which is not materially adverse to creditors may be filed, no additional notice is required. If notice has previously been given by the Clerk or by the debtor in a prior plan that a possible modification which is not materially adverse to creditors may be filed and the modification is materially adverse to a limited number of creditors notice may be limited to those creditors adversely affected.
- (c) Post-confirmation modifications shall follow the procedure set forth in FRBP 3015(g). If there is no objection within ~~twenty~~ 21 days, the debtor shall file an affidavit of no objection. ~~Upon the request of any creditor or any interested party, the debtor shall serve that party with a copy of any order modifying plan.~~
- (d) Modification of plans shall comply with LR 3015.2.

***Comment:** The last sentences of subsections (a) and (c) are deleted because the because the ~~order confirming the~~ plan is served on all parties. (It is the plan that is served, not the order confirming the plan, as indicated in the draft document.) The phrase “in the opinion of the Standing Trustee” is deleted because the Notice and Request to Modify Chapter 13 Plan Model Form in the Appendix discloses whether or not creditors will be materially adversely affected by the modification. Adopted April 28, 2009.*

LR 3015.1 Chapter 13 Model Plan, Mandatory Use. The Chapter 13 Model Plan set forth in the Appendix to these rules shall be used in all Chapter 13 cases.

***Comment:** In April of 2008 the Model Plan Subcommittee of the Local Rules Committee completed its revision of the Chapter 13 Model Plan for the Eastern District. At that time the Plan Subcommittee recommended that the Rules Committee adopt a rule to make use of the Model Plan mandatory in the district. The reasons*

for making use mandatory included the efficiency that comes with uniformity, making it easier for Chapter 13 Trustees and creditors to know what a plan was proposing, and to prompt debtors and debtors' counsel to include all of the provisions necessary for a confirmable plan. Adopted April 14, 2009.

LR 3015.2 Chapter 13 Modified Plan Model Form; Mandatory Use. The Notice and Request to Modify Chapter 13 Plan Model Form set forth in the Appendix to these rules shall be used in all Chapter 13 cases.

***Comment:** Revised LR 3015.1 makes use of the Chapter 13 Model Plan mandatory. The Committee concluded it would be advisable to have a uniform document to cover all matters relating to Plan modification, both pre- and post-confirmation. A Notice and Request to Modify Chapter 13 Plan Model Form was created by the Committee and is in the Appendix to the Local Rules. Adopted April 14, 2009.*

LR 3017 Disclosure Statement.

- (a) **Notice of Hearing and Disclaimer.** The proponent of a plan shall give notice of the hearing to consider approval of the Disclosure Statement. The notice shall include the following statement in bold face type.

THIS NOTICE DOES NOT CONSTITUTE A SOLICITATION OF ACCEPTANCES OF A PLAN OF REORGANIZATION. ACCEPTANCES MAY NOT BE SOLICITED UNLESS AND UNTIL THE DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE COURT.

- (b) **Required Statement.** After approval by the court, the Disclosure Statement, or a separate notice shall conspicuously state the following.

THIS DISCLOSURE STATEMENT HAS BEEN DETERMINED BY THE COURT TO CONTAIN ADEQUATE INFORMATION AS REQUIRED BY SECTION 1125 OF THE CODE. THIS DETERMINATION DOES NOT CONSTITUTE RECOMMENDATION OR APPROVAL OF THE PLAN.

LR 3017.1 Pre-packaged Plans.

- (a) **Declaration of Counsel for Debtor-in-Possession.** In connection with any request for the special setting of hearing to approve a disclosure statement or

a combined hearing to approve a disclosure statement and confirm a plan, in addition to any other required papers, counsel for the debtor-in-possession shall submit a declaration covering the following points:

- (1) **Retention of Counsel.** The date counsel was retained by the debtor, the approximate number of hours of professional time expended pre-petition, compensation paid to counsel pre-petition including source of payment and the approximate amount of accrued but unpaid compensation.
- (2) **Communications with Creditors.** A description of any written communications of the debtor with substantially all of debtor's creditors during the pre-petition reorganization process relating to the workout or plan process. Copies of letters should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.
- (3) **Communications with Shareholders or Partners.** A description of any written communications with substantially all of debtor's shareholders or partners of a partnership during the pre-petition reorganization process relating to the workout or plan process. Copies of letters should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.
- (4) **Creditors' Committee.** If a Creditors' Committee existed pre-petition, indicate the date and manner in which the committee was formed.
- (5) **Counsel for Committee.** If the pre-petition Creditors' Committee retained counsel, indicate the date counsel was engaged and the selection process.
- (6) **Position of the United States Trustee.** It is expected that the United States Trustee will be consulted prior to, or simultaneously with, the filing. Set forth the position of the United States Trustee regarding the request for a special setting, if known.

- (b) **Declaration of Counsel for Creditors' Committee.** Where counsel has represented a pre-petition Creditors' Committee and anticipates representing the Official Creditors' Committee when appointed, counsel should submit a declaration covering the following points:
- (1) **Retention of Counsel.** The date counsel was retained by the Committee, the approximate number of hours of professional time expended pre-petition, compensation paid to counsel pre-petition including source of payment and the approximate amount of accrued but unpaid compensation.
 - (2) **Investigation of Committee and Counsel.** A summary description of the scope and results of any investigation into the debtor's affairs conducted by the Committee and/or its counsel.
 - (3) **Communication with Creditors.** A description of any written communications of the Committee or its counsel with substantially all of debtor's creditors during the pre-petition reorganization process relating to the workout or plan process. Copies should be attached. If letters contain confidential information, they need not be attached but the court may require in-camera inspection.
 - (4) **Involvement in Formulation of Plan and Disclosure Statement.** A description of the Committee's and counsel's involvement in the formulation of the plan and disclosure statement.

LR 4001 Cash Collateral and Financing Orders.

- (a) **Motions.** Except as provided herein and elsewhere in these Rules, all cash collateral and financing requests under 11 U.S.C. §§ 363 and 364 shall be heard by motion filed pursuant to Bankruptcy Rules 2002, 4001 and 9014 ("Financing Motions").
- (b) **Provisions to be Highlighted.** All Financing Motions must (1) recite whether the proposed form of order and/or underlying cash collateral stipulation or loan agreement contains any provision of the type indicated

below; (2) identify the location of any such provision in the proposed form of order, cash collateral stipulation and/or loan agreement; and (3) provide the justification for the inclusion of such provision:

- (1) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the pre-petition secured creditors (i.e., clauses that secure pre-petition debt by post-petition assets in which the secured creditor would not otherwise have a security interest by virtue of its pre-petition security agreement or applicable law).
- (2) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured creditor's pre-petition lien or debt or the waiver of claims against the secured creditor without first giving parties-in-interest at least 75 days from the entry of the order and the creditors' committee, if formed, at least 60 days from the date of its formation to investigate such matters.
- (3) Provisions that seek to waive, without notice, whatever rights the state may have under 11 U.S.C. § 506©.
- (4) Provisions that grant immediately to the pre-petition secured creditor liens on the debtor's claims and causes of action arising under 11 U.S.C. §§ 544, 545, 547, 548 and 549.
- (5) Provisions that deem pre-petition secured debt to be post-petition debt or that use post-petition loans from a pre-petition secured creditor to pay part or all of that secured creditor's pre-petition debt, other than as provided in 11 U.S.C. § 552(b).
- (6) Provisions that provide for a substantially smaller or no professional fee carve-out for the professionals retained by a creditor's committee as compared to the professional fee carve-out for the professionals retained by the debtor.
- (7) Provisions that prime any secured lien, without the consent of that lienor.

- (8) Super-priority positions unless a significant carve-out is proposed.
 - (9) A secured creditor obtaining a higher administrative expense priority than Chapter 11 expenses of administration or Chapter 7 expenses of administration in the event of a conversion from Chapter 11.
 - (10) Automatic perfection of security interests in “replacement lien collateral” without filing or re-filing UCC statements.
- (c) **Summary of Terms.** All Financing Motions shall also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations and protections afforded under 11 U.S.C. §§ 363 and 364).
- (d) **Interim Relief.** When Financing Motions are filed with the Court on or shortly after the date of the entry of the order for relief, the Court may grant interim relief pending review by the interested parties of the proposed debtor-in-possession financing arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. Interim financing orders that include any of the provisions previously identified in subsection (b)(1) through (b)(10) of this Rule may not be approved.
- (e) **Final Orders.** A final order shall be entered only after notice and a hearing pursuant to Bankruptcy Rule 4001 and LR 9014. Ordinarily, the final hearing shall be held at least ~~ten (10)~~ 14 days following the organizational meeting of the creditors’ committee contemplated by 11 U.S.C. § 1102.

LR 4001.1 Pre Confirmation Adequate Protection Payments. All adequate protection payments required by 11U.S.C. §1326(a)(1) shall be paid as follows:

- (a) The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief. Absent a timely objection to confirmation of the proposed plan, the debtor is presumed to have made these payments as required under

11 U.S.C. §1326(a). Since the Chapter 13 Plan shall provide that payments to lessors will be paid directly, there shall be no reduction in the Chapter 13 Plan payment for these direct payments.

- (b) The Chapter 13 Plan shall provide that §1326(a)(1) pre-confirmation adequate protection payments to a creditor holding an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of such property by the debtor for that portion of the obligation that becomes due after the order for relief is entered shall be paid through the Chapter 13 Trustee, unless the Court orders otherwise.
 - (1) The debtor shall list the creditor name, address, ~~account number~~ and a sum certain to be paid for each secured creditor receiving a §1326(a)(1) preconfirmation adequate protection payment in the Chapter 13 Plan and Plan Summary for Cases Filed On or After October 17, 2005.
 - (2) ~~Unless the plan provides in clear and conspicuous language in the Chapter 13 Plan and Plan Summary for Cases Filed On or After October 17, 2005, that the creditor is not entitled to adequate protection payments because it is not a purchase money secured creditor in personal property, it is presumed that any creditor listed in the Chapter 13 Plan and Plan Summary for Cases Filed On or After October 17, 2005, shall be entitled to adequate protection.~~
 - (3) The Chapter 13 Trustee shall not remit any adequate protection payment to any secured claimant who is not listed in the Chapter 13 Plan and Plan Summary for Cases Filed On or After October 17, 2005, absent other Order of the Court.
 - (4) All adequate protection payments paid through the Chapter 13 Trustee shall be subject to the trustee's statutory percentage fee, as set by the designee of the United States Attorney General for confirmed plans and the Chapter 13 Trustee shall collect such percentage fee at the time of the distribution of the adequate protection payment to the claimant as a §503 administrative expense.
 - (5) No adequate protection payments shall be paid until a Proof of Claim

is filed.

- (6) All adequate protection payments through the Chapter 13 Trustee shall be made in the ordinary course of the trustee's business from funds in the case as they become available for distribution to claimants.
- (7) All adequate protection payments through the Chapter 13 Trustee shall be made in the equal monthly amount provided for the claimant in the Chapter 13 Plan unless the plan provides otherwise in clear and conspicuous language.
- (8) Pursuant to 11 U.S.C. §1326(a)(3), claimants may file objections to the adequate protection treatment provided by the plan. The Chapter 13 Trustee shall continue to make adequate protection payments to the movant in the monthly amount provided in the plan until the Court orders otherwise.
- (9) Upon the dismissal or conversion to another Chapter of a case prior to the confirmation of a Chapter 13 Plan, the Chapter 13 Trustee shall make the pre-confirmation adequate protection payments due under the plan or Court Order, or a portion thereof, from any funds available for that purpose received on or before the date of the entry of the Order of Dismissal or Conversion to creditors that have filed Proofs of Claim prior to the date of the dismissal or conversion.
- (10) The principal amount of the adequate protection recipient's claim shall be reduced by the amount of the adequate protection payments remitted to the claimant unless the Court orders otherwise.

***Comment:** Requirement of the account number in (b)(1) is unnecessary in the plan because adequate protection will not be paid until a proof of claim is filed. LR 4001.1(b)(5). Subsection (b)(2) is deleted in order to allow the plan provisions to control. Adopted April 21, 2009.*

LR 4001.2. Motions for Relief from Stay

- (a) **Motion.** In a chapter 13 case in which the debtor has not stated an intention

to surrender the real property in question, a movant bringing a motion under 11 U.S.C. § 362 (d)(1) or (d)(2) for relief from the automatic stay with respect to real property based in whole or in part on the failure of the debtor to make one or more periodic post-petition payment shall attach a separate affidavit to the motion signed by an employee of the movant or its servicing agent with personal knowledge that contains the following information:

- (1) A description of the property, including its street address, city and state;
- (2) A copy of the note, a copy of the mortgage, land contract or other agreement evidencing a lien, evidence of the lien's perfection and, if applicable, a copy of the assignment of the lien to the movant unless such documents have already been filed with the court. If the motion is being made by a loan servicer, a copy of the loan servicing agreement or an abridgment thereof which grants authority to the loan servicer to file the motion shall be attached unless this document has already been filed with the court;
- (3) An itemization of the post-petition arrearage which the movant alleges is due;
- (4) A complete payment history from the date the movant alleges the debtor's post-petition account was last current unless the motion is brought pursuant to (5), below. The payment history shall substantially conform to the form set forth in the Appendix to these rules;
- (5) If the motion is based on a default in making plan payments to the chapter 13 trustee, the due date and amount of each missed payment and the current status of payments to the trustee; and
- (6) If relevant to the motion, the movant's estimate of the current market value of the property and whether any equity exists in the property.

- (b) **Objection.** An objection filed by the debtor to a motion brought pursuant to paragraph (a) challenging the movant's allegation of missed payments shall attach proof that payments have been made or a declaration under penalty of perjury that such payments have been made.

Comment: This rule was created to require certain information from the moving secured creditor in order to provide sufficient information to the debtor and the court to evaluate the motion for relief. It also creates a duty that the debtor provide proof

of payments if the allegation of missed payments is challenged. Adopted June 6, 2009.

LR 5005 Electronic Filing. The court will accept for filing documents submitted, signed or verified by electronic means that comply with procedures established by the court. Electronic filing is mandatory for all attorneys who practice in this district except in limited emergency circumstances or where the attorney has received a waiver from the mandatory requirement from the Chief Judge of the Bankruptcy Court. If an attorney encounters emergency circumstances that require the attorney to file documents in paper form, the paper filing shall be accompanied by a letter briefly discussing the emergency circumstances that prevented electronic filing

***Comment:** The second and third sentences are new. The purpose of the change is to make electronic filing mandatory due to the benefits electronic filing provides. Adopted April 28, 2009.*

LR 5005.1 Retention of Electronically Filed Documents.

- (a) Documents which must contain original signatures of the debtor(s) or other entities, including those which are: signed under penalty of perjury; require verification under Fed. R. Bankr. P. 1008; or contain an unsworn declaration as provided in 28 U.S.C. § 1746 must be maintained by the filer of the document for a period of five years after the closing of the case unless the Court orders a different period. On request of the Court or any party in interest, the filer must provide original documents for review.
- (b) As an alternative to maintaining the above referenced documents for a period of five years, the filer may have the original document, including any original signature, scanned, digitized and electronically stored for five (5) years. Such document shall be deemed a counterpart intended by the person executing or issuing it to have the same effect as an original pursuant to Federal Rule of Evidence 1001(3) provided the person or persons executing or issuing the document shall have signed and filed in the case a Verification of Signature and Designation of Electronic Counterpart as Original as set forth in the Appendix to these Rules. On the request of the Court or any party in interest the filer must provide a copy of the electronic document.

***Comment:** LR 5005.1 was added in 2005-2006 revisions. The 2005-2006 comments stated that one reason for the rule was that the clerk no longer keeps originals. Another reason not reflected in the comment was to allow*

for production of the original when examining the signer of the document at a hearing. The effect of this rule was to make attorneys the custodians of what would otherwise be court documents and to provide for their maintenance and storage while the courts have the benefit of electronic storage. The proposed change would allow for attorneys to utilize technology to address record maintenance and storage and at the same time it makes the electronic document an original by incorporating the Federal Rules of Evidence definition of what is an original, which should resolve the evidentiary issue. Adopted May 5, 2009.

LR 5005.2 Facsimile Filing. Documents may not be filed with the court via facsimile. No one may send anything else to the court via facsimile without the court's prior authorization.

Comment: The current version of the local rule provides a mechanism, with court permission, for filing documents in a case via facsimile. Because of electronic filing, there is no longer a need for facsimile filing. However, a rule prohibiting faxes to the court without prior permission is still needed for correspondence and other items that will not be docketed in a case. Adopted July 14, 2009.

LR 6004 The Sale of Substantially all Assets Under Section 363 Within 60 Days of the Filing of the Petition.

(a) **Declaration of Counsel for Debtor-in-Possession.** In connection with any hearing to approve the sale of substantially all assets within 60 days of the filing of the petition, the request for an emergency hearing or the sale motion ("Sale Motion") itself when regularly noticed, should be supported by a separate declaration by counsel for the debtor-in-possession covering the following points:

(1) **Communications with Creditors.** A description of any written communications of the debtor with substantially all of the debtor's creditors during the pre-petition reorganization process relating to the workout or sale process. Copies of letters should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.

(2) **Communications with Shareholders or Partners.** A description of any written communications with substantially all of the debtor's

shareholders or partners of a partnership during the pre-petition reorganization process relating to the workout or sale process. Copies of letters should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.

- (3) **Creditors' Committee.** If a Creditors' Committee existed pre-petition, indicate the date and manner in which the committee was formed.
- (4) **Counsel for the Committee.** If the pre-petition Creditors' Committee retained counsel, indicate the date counsel was engaged and the selection process.
- (5) **Sale Contingencies.** Statement of all contingencies to the sale agreement together with a copy of the agreement.
- (6) **Creditor Contact List.** If no committee has been formed, a list of contact persons, together with fax and phone numbers for each of the largest 20 unsecured creditors.
- (7) **Administrative Debts.** Assuming the sale is approved, an estimate of administrative debts to be incurred prior to closing and the source of payment for such debts.
- (8) **Proceeds of Sale.** An estimate of the gross proceeds anticipated from the sale together with an estimate of the net proceeds coming to the estate with an explanation of the items making up the difference.
- (9) **Debt Structure of Debtor.** A brief description of the debtor's debt structure, including the amount of the debtor's secured debt, priority claims and general unsecured claims.
- (10) **Disposition of Proceeds.** A statement setting forth, to the best of declarant's knowledge, the likely distribution of proceeds to secured claimants, administrative claimants, priority claimants and general unsecured creditors.
- (11) **Effect on Employment.** A statement setting forth, to the best of declarant's knowledge, the number of debtor's employees, if any, who will be retained by the buyer after the sale.

- (b) **Affidavit of Responsible Individual for Debtor-in-Possession.** Counsel's declaration referred to in paragraph (a) above should be accompanied by an affidavit from the responsible individual, to the best of affiant's knowledge and belief, covering the following matters.
- (1) **Alternatives to Sale.** A summary description of the efforts, if any, to pursue other alternatives such as financing, capital infusion, etc., including the period of time involved and the results achieved.
 - (2) **Marketing of Assets.** A summary description of the manner in which the assets were marketed for sale including the period of time involved and results achieved.
 - (3) **Decision to Sell.** The date on which the debtor accepted the offer to purchase the assets.
 - (4) **Asset Valuation.** Disclosure of the prior valuations, undertaken or commissioned by the debtor, within the last year, of the assets to be sold, if any (i.e., book value, appraisals, financial statements, etc.).
 - (5) **Relationship of Buyer.** A statement identifying the buyer and setting forth, to the best of affiant's knowledge, all of the buyer's (including its officers, directors and shareholders) connections with the debtor, material connections with creditors, any other party in interest, their respective attorneys, accountants, the United States Trustee or any person employed in the office of the United States Trustee.
 - (6) **Post Sale Relationship with Debtor.** A statement setting forth, to the best of affiant's knowledge, any relationship or connection the debtor (including its officers, directors, shareholders and employees) will have with the buyer after the consummation of the sale, assuming it is approved.
 - (7) **Relationship with Secured Creditors.** If the sale involves the payment of all or a portion of secured debt(s), a statement of all material connections between debtor's officers, directors, employees or other insiders and each secured creditor involved (for example, release of insider's guaranty).
 - (8) **Insider Compensation.** Disclosure of current compensation

received by officers, directors, key employees or other insiders pending approval of the sale.

- (c) **Declaration of Counsel for Creditors' Committee.** Where counsel has represented a pre-petition Creditors' Committee and anticipates representing the Official Creditors' Committee when appointed, counsel should submit a declaration covering the following points;

- (1) **Investigation of Committee and Counsel.** A description of the scope and results of any investigation into the debtor's affairs conducted by the Committee and/or its counsel.
- (2) **Communication with Creditors.** A description of any written communications of the Committee or its counsel with creditors during the pre-petition reorganization process relating to the workout or sale process. Copies should be attached. If letters contained confidential information, they need not be attached but the court may require in-camera inspection.
- (3) **Involvement in Sale.** A description of the Committee's and counsel's involvement in the negotiation of the sale.

- (d) **Hearing and Notice Regarding Sale.**

- (1) Any motion to approve sale or bid procedures ("Sale Procedures Motion") shall be filed with the Sale Motion. A hearing on the Sale Procedures Motion shall be held not less than ~~10~~14 days before any auction or presentation of competing bids, unless such time is shortened by the court upon a showing of cause.
- (2) Any Sale Procedures Motion shall be accompanied by a declaration of counsel for the debtor-in-possession highlighting the following provisions:
 - (a) The time and place of the bidding process, and whether telephone participation will be permitted.
 - (b) The amount of any initial bid.
 - (c) The amount of any required overbid (overbid protection).

- (d) The amount of subsequent bidding increments.
 - (e) Any “last look” or rights to match previous bids offered to any party.
 - (f) The amount and form of any required bid deposits, and the manner and timing of the return of bid deposits to unsuccessful bidders.
 - (g) The effect of the winning bidder’s failure to close (for example, loss of bid deposit; liability for other damages; obligations, if any, of the next highest bidder or other bidders to close).
 - (h) The parameters of due diligence investigation offered to prospective bidders.
 - (i) To the extent not covered above, a summary of the essential terms of any purchase agreement.
- (3) If no Sale Procedures Motion is filed, unless the court orders otherwise, all sales governed by these rules, including auctions or the presentation of competing bids, will occur at the hearing before the court.
 - (4) The Notice of any Sale Procedure Motion sent to creditors and other parties in interest shall contain the information required by paragraph (d)(2).
 - (5) The notice sent to creditors and other parties in interest of the Sales Motion should contain the information required by paragraphs (a)(7) through (10) and (b)(1) through (8) above, in addition to any other matters normally set forth in a notice of sale.
- (e) **Proposed Order Approving Sale.** A proposed order approving the Sale Procedures Motion and the Sale Motion should be provided to chambers 24 hours prior to the respective hearing.
 - (f) **Good Faith Finding.** There must be an evidentiary basis for a finding of good faith under § 363(m). Evidence can be presented in the form of a declaration from the prospective purchaser.

- (g) **Competing Bids.** Unless otherwise provided in the Order approving Sale Procedures Motion, or unless the court orders otherwise, competing bids can be presented at the time of the hearing.
- (h) **Financial Ability to Close.** Unless the court orders otherwise, any competing bidder must be prepared to demonstrate to the satisfaction of the court its ability to consummate the transaction if it is the successful bidder.
- (i) **Damages Payable to Prospective Purchaser.**
 - (1) Whether denominated liquidated damages, breakup fee, topping fee or other designation, no damages of any kind are payable to a prospective purchaser or its agents absent approval of the court in the Order approving Sale Procedures Motion or otherwise.
 - (2) If a provision for damages is contained in the original purchase agreement, to be enforceable, the parties must disclose the provision, identify where it appears in the purchase agreement and obtain court approval for the provision separate from court approval of the general terms of the purchase agreement.
 - (3) A request for the approval of a damage provision shall be supported by, in addition to any other required papers, a declaration from counsel for the debtor-in possession setting forth the precise conditions under which damages would be payable and the factual basis on which the seller determined the provision was reasonable. Counsel for the proposed buyer may, but is not required to, submit a similar declaration.

LR 7004 Adversary Filing Procedures.

- (a) **Procedures.** Procedures relating to the number of copies, Form B 104 Cover Sheet and issuance of Adversary Summons are set forth in the Appendix.
- (b) **Copies of Summons and Complaint to be Provided to U.S. Trustee.** A copy of the Summons and Complaint and Adversary Proceeding Cover Sheet shall be transmitted by the plaintiff to the U.S. Trustee. No other pleadings shall be transmitted to the U.S. Trustee unless specifically requested by that office.

LR 7005 Proof of Service. Certification or proof of service of any pleading shall be by

separate document and shall indicate the date, method of service, and names and addresses of parties served.

LR 9001 Rules of Construction.

- (a) “Affidavit of no objection” in these Rules includes an unsworn electronic certification of no objection filed by an attorney or a trustee.
- (b) “Clerk” in these Rules or in the Local Rules for the United States District Court for the Eastern District of Wisconsin” means Clerk of the United States Bankruptcy Court for the Eastern District of Wisconsin, unless the context requires reference to the Clerk of the District Court.
- (c) “Judge” in the Local Rules for the United States District Court for the Eastern District of Wisconsin shall include bankruptcy judges unless the context requires otherwise.
- (d) “Motion” in these Rules, applies to all applications, notices of intended action or objections, and U.S. Trustee comments.
- (e) These Rules are intended to be enforced primarily on the court’s own initiative, and the filing of motions alleging noncompliance with a rule shall be reserved for egregious cases.

LR 9004 Form and Number of Documents.

- (a) **Size and Legibility of Documents Generally.** All documents not filed electronically, except exhibits, shall be on letter size (8-1/2" x 11") durable, opaque, unglazed paper, fastened at the top without special backing or binding; plainly and legibly written, typewritten, printed or reproduced; and without erasures or interlineations materially defacing them. Documents that are not type written or otherwise printed shall be in ink or its equivalent. Except for exhibits, only one side of each paper shall be used. All pages shall be sequentially numbered.
- (b) **Pleadings, Motions, Briefs.** All pleadings, motions, responses to motions, briefs, stipulations, affidavits, and proposed orders shall be double spaced and in not less than 12 point type, unless that judge authorizes in advance an alternative method. No brief shall exceed 15 pages, excluding exhibits and attached cases, without prior express authorization of the judge. Exhibits, including discovery documents, shall be limited to those to which reference

is made in the brief or memorandum.

- (c) **Rule Not Applicable to Approved Forms.** Forms approved by this court or approved for use in federal courts are exempt from these requirements.
- (d) **Identification of Documents.** All documents shall include the name of the court, the title of the case, the chapter number, the proper case number with the initials of the assigned judge, and the name or nature of the document. All pleadings shall be signed by an attorney, or by the litigant if appearing pro se, and have typed thereon at the bottom left of the first page, single spaced, the name, address, telephone number, fax number and e-mail address of each person signing the pleading.
- (e) **Form of Proposed Orders.** Each proposed order shall be submitted as a separate document. The signature line for the judge shall not appear on a continuation page that is blank or that contains only the case number and title of the case. The drafter's name, address, telephone number, fax number and e-mail address shall appear in the lower left hand corner of the first page, single spaced.

LR 9006 **Motions for Extension of Time.** A motion for an extension of time shall state the date the original time will expire and the names of all known persons who may be adversely affected by the extension.

LR 9006.1 **Paper filing after office hours.** Papers submitted after hours to the clerk's office's drop-box will be electronically date and time stamped. As long as the date and time stamped is no later than 11:59:59 PM, the documents shall be considered timely filed for purposes of meeting deadlines.

Comment: Electronic filers may timely file up to 11:59:59 PM on a given day. This rule was added to accommodate paper filers or when electronic filing is not possible due to equipment problems.

LR 9010 **Withdrawal and Substitution of Attorneys of Record.** An Attorney who has appeared as the attorney of record for the debtor, trustee creditors' committee, or party in a case, adversary proceeding, or contested matter may not withdraw, be relieved or displaced except by notice to the party represented and any adversaries and by leave of the court.

LR 9010.1 **Disclosure of Attorney Who Drafts Petition, Pleading, Proposed Order, Trial-Related Document, Schedule, or Statement of Affairs; Prohibition Against**

Ghostwriting. Any attorney, whether or not the attorney of record, who makes a major substantive contribution to a petition, pleading, proposed order, trial-related document, schedule, or statement of affairs which is filed with the court or is intended to be filed with the court shall disclose the name, address, phone number, facsimile number and e-mail address of the attorney in the lower left corner of the first page.

LR 9010.2 Appearance by Attorney Pro Hac Vice. Attorneys appearing in bankruptcy court shall comply with rules for admission to practice before the United States District Court for the Eastern District of Wisconsin, except that the bankruptcy court in its discretion, upon request from counsel and without application, fee, or motion of a member in good standing, may issue an order allowing appearance by an attorney who is not admitted to practice in this district for matters that are incidental and limited in duration.

LR 9013 Form of Motions, Notices and Orders.

- (a) **Caption.** Every motion, proposed order and notice of intended action shall contain in the caption a description of the relief requested or action intended.
- (b) **Reliance Upon Matters of Fact.** When a motion relies in whole or in part upon matters of fact, the motion shall be served and filed with supporting documents.
- (c) **Disclosure of Basis of Motion.** Every motion shall state the code section(s), rule(s) or other authority upon which the request for relief is based.

LR 9013.1 Proof of Service. Every motion shall be accompanied by a declaration of service, which shall name the parties who were served or will be served, and the date and method of service. If the declaration names parties who will be served, another declaration of service shall be filed confirming that such parties were actually served, and the date and method of service.

LR 9013.2 Motion Practice.

- (a) Motions or notices of intended action for which only notice and opportunity for hearing are required (see 11 U.S.C. 102) shall proceed by the filing of a notice of motion or intended action substantially complying with Official Form 20A, LR 9014, a motion or statement of intended action conforming with Bankruptcy Rule 9013 and LR 9013.1, and proof of service.

- (b) Without limiting those motions or applications for which a hearing is required under the Bankruptcy Code or Bankruptcy Rules, the following motions or applications require a hearing in this district:

(1) ~~A motion to reopen a case to administer assets;~~ Sanctions for wrongful conduct.

(2) A motion to dismiss a Chapter 7 case except on the motion of a trustee to dismiss for failure to appear at a section 341 meeting and the motion of the U.S. Trustee to dismiss under 11 U.S.C. 707(a)(3); or upon inadvertent filing of a duplicate case.

(3) A motion to dismiss or convert a Chapter 11 case other than a motion to convert made pursuant to 11 U.S.C. 1112(a);

(4) A motion to dismiss a Chapter 13 case if there has been a prior conversion;

~~(5) A motion to convert a Chapter 7 case to a Chapter 13 case if there has been a prior conversion;~~

~~(6) All fee requests in Chapter 11 cases;~~

~~(7) Approval of Chapter 7 trustee's final report;~~

~~(8) Sanctions for wrongful conduct.~~

- (c) The procedure for obtaining a hearing date and providing notice thereof on any matter under the Code, Bankruptcy Rules or these Local Rules for which a hearing is required is set forth in LR 9014.2 and LR 9014. .

LR 9013.3 **LR 9013.3 Motion Practice; Briefs.** Unless otherwise ordered by the court, any brief in support or opposition to a motion shall be filed and served no later than ~~five~~ (5) 7 days prior to the date of the hearing.

LR 9014 **Notice of Motion; Notice of Hearing; Time Periods for Objections; Form of Objections.**

- (a) A notice of motion or notice of intended action under LR 9013.2 (Motion Practice) shall clearly state that if the party against whom relief is sought wishes to be heard on the motion an objection must be filed and served

within ~~fifteen (15)~~ 14 days of the service of the notice (unless either the court orders otherwise or the Bankruptcy Code or Bankruptcy Rules governing the motion or intended action require a different period, e.g., Bankruptcy Rule 2002, 11 U.S.C. 1301(d)) otherwise the court may grant the relief requested without hearing. If an objection is filed with the court and served on the movant on or before ~~fifteen (15)~~ 14 days after the service of the notice of the motion or intended action, the court will schedule a hearing and the court, or such other person as the court may direct, shall give notice thereof to the parties. The notice shall state whether the hearing is evidentiary or preliminary. If no objection is filed within the time period, the movant may proceed under LR 9014.1 (Affidavit of No Objection) but shall serve the affidavit of no objection and proposed order on the opposing party and shall file proof of service thereof.

- (b) A Notice of hearing for those motions requiring a hearing pursuant to the Bankruptcy Code, Bankruptcy Rules or LR 9013.2(b) shall:
 - (1) State that any objection to the motion must be served and filed not less than ~~five (5)~~ 1 day before the hearing unless ordered otherwise by the court or prescribed by the Bankruptcy Code or Bankruptcy Rules. If the hearing date is less than ~~ten (10)~~ 14 days after service of the motion, the objection shall be served and filed not less than one day before the hearing.

LR 9014.1 Affidavit of No Objection. If no objection has been filed to a motion, the movant shall file an affidavit of no objection and proposed order, shall serve same on the opposing party and shall file proof of service therefore. The court may sign the order granting the motion or may set a hearing on the motion.

LR 9014.2 Obtaining a Hearing Date on a Matter.

- (a) A hearing date on a matter may be requested by telephone or in writing by contacting the Court's Judicial Assistant. The person requesting the hearing date shall inform the Judicial Assistant of the identity of the party making the request, the case name and a number, the caption of the matter for which a hearing is requested, an estimate of the court time required, and request the court to designate whether the hearing is evidentiary or preliminary.
- (b) The request for a hearing date from the Court shall constitute a good faith certification by the party making the request that the party's pleadings

relating to the hearing will be filed in a timely fashion. In the event that a scheduled hearing date later becomes unnecessary, the party who obtained the hearing date shall contact the Court and request that the hearing be taken off the calendar.

- (c) The party requesting the hearing shall indicate in the notice whether the hearing is evidentiary or preliminary.
- (d) Failure to comply with this Rule may result in sanctions being imposed.

LR 9014.3 Hearings; Duty to Confer. Hearings on Motion. Prior to a hearing, the movant and any party objecting thereto shall promptly attempt to resolve by agreement all matters believed to be in dispute. In addition, they shall make a reasonable effort to determine the evidence and the length of time necessary for a hearing on said motion. As soon as practicable, the parties shall advise the Judicial Assistant of the anticipated length of the hearing.

LR 9014.4 Teleconference Hearings; Telephonic Appearances.

(a) Hearings by Teleconference.

- (1) Hearings conducted by teleconference may be requested by any party or may be initiated by the Court.
- (2) If the Court grants a request for a hearing by teleconference, the party who made the request shall contact the other parties to the matter and provide appropriate notice that the hearing will be by teleconference.
- (3) When a matter is scheduled for a hearing by telephone conference, ordinarily all parties are expected to appear by telephone. In the event a party intends to appear in person at a teleconference hearing, then that party shall provide reasonable advance notice of such intention to the other parties to the matter so that they have the opportunity to appear in person as well. In the event advance notice is not provided, at the start of the teleconference hearing the Court will consider whether the matter should be adjourned.
- (4) Unless the Court orders otherwise, teleconference hearings will be preliminary hearings without the presentation of evidence. However, if sufficient grounds to grant or deny the Motion are not alleged at the preliminary hearing, the Court may rule on the matter at that time.

- (b) **Appearance at a Hearing by Telephone.** For hearings other than teleconference hearings, any party may request permission to appear at such hearing by telephone. The decision of whether to permit a party to appear at a hearing by telephone is in the sole discretion of the Court.

LR 9014.5 Orders; 7 Day Rule. The court shall hold proposed orders arising from a contested hearing for 7 days from the date of service for comments or objections to the form of the order. The person submitting the proposed order shall serve a copy thereof on the other persons who participated in the contested hearing contemporaneously with the submission of the proposed order to the court.

***Comment:** The rule is changed to explicitly require service of the proposed order on opposing parties which under the previous rule was only implied. The rule has also been changed to require a seven (7) day hold rather than a (5) day hold to conform with BR 9006. Adopted June 9, 2009.*

LR 9029 Adoption of Rules. The United States Bankruptcy Court for the Eastern District of Wisconsin hereby adopts these Local Rules. These rules shall apply to all cases and proceedings in the United States Bankruptcy Court for the Eastern District of Wisconsin now pending or commenced hereafter. In addition, the Local Rules of the United States District Court for the Eastern District of Wisconsin, of which this court is an adjunct, shall apply in all cases and proceedings except to the extent they are inconsistent with the Bankruptcy Rules or these Local Rules.

LR 9029.1 Waiver or Modification of Local Rules. The court may waive or modify any of these Local Rules.

LR 9036 Authorization of Use of Court's Transmission Facilities. The court is authorized to use its own transmission facilities in connection with authorized electronic service among parties or from the courts.